

AMENDED IN ASSEMBLY FEBRUARY 3, 2003

CALIFORNIA LEGISLATURE—2003–04 FIRST EXTRAORDINARY SESSION

SENATE BILL

No. 15

Introduced by Committee on Budget and Fiscal Review

January 27, 2003

An act to amend Sections ~~2933, 3041, and 3057 of, and to add Section 3001.5 to, 2933 and 3057 of~~ the Penal Code, relating to the Department of Corrections.

LEGISLATIVE COUNSEL'S DIGEST

SB 15, as amended, Committee on Budget and Fiscal Review. Department of Corrections.

Under existing law, certain prisoners in state prison may earn reductions in the time served for performance in work assignments or in elementary, high school, or vocational education programs, by which they may receive 6 months of credit for every 6 months of full-time performance in a qualifying program, as designated by the Director of Corrections. Existing law provides that less than maximum credit should be awarded to prisoners not assigned to a full-time program.

This bill would provide that a prisoner who is willing to participate in a full-time credit qualifying assignment, but is either not assigned to a full-time assignment or assigned to a program for less than full time, and who is not excluded by specified criteria, shall receive the same credit awarded to prisoners performing in full-time credit qualifying assignments. This would not apply to specified prisoners. It would further require that these credits accrue from the date of reception by the Department of Corrections. The bill would provide that these

provisions shall apply only to time served under the jurisdiction of the Department of Corrections on and after the effective date of the bill.

~~Existing law specifies the period of parole for various crimes for which an inmate has been imprisoned in the state prison, and provides for the discharge of certain persons from parole prior to the end of that period, as specified, unless the Department of Corrections recommends to the Board of Prison Terms that the person be retained on parole and the board, for good cause, determines that the person will be retained on parole.~~

~~This bill would require, commencing April 1, 2003, that every parolee who has been on parole continuously for one year since release from confinement shall be discharged from parole, except for parolees who have committed a serious or violent felony, as specified, or who are required to register as sex offenders.~~

~~Existing law provides a procedure for the setting of parole dates for prisoners, as specified.~~

~~This bill would provide that commencing April 1, 2003, prisoners whose parole release dates have been set, and who have not suffered a conviction for specified offenses, would be released to parole one month earlier than the date previously established for the prisoner, and that prisoners whose parole dates have not yet been set, and who have not suffered a conviction for specified offenses, would have their parole release dates set one month earlier than would otherwise occur.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 2933 of the Penal Code is amended to
2 read:

3 2933. (a) It is the intent of the Legislature that persons
4 convicted of a crime and sentenced to the state prison under
5 Section 1170 serve the entire sentence imposed by the court,
6 except for a reduction in the time served in the custody of the
7 Director of Corrections for performance in work, training or
8 education programs established by the Director of Corrections.
9 Worktime credits shall apply for performance in work assignments
10 and performance in elementary, high school, or vocational
11 education programs. Enrollment in a two- or four-year college
12 program leading to a degree shall result in the application of time

1 credits equal to that provided in Section 2931. For every six
 2 months of full-time performance in a credit qualifying program,
 3 as designated by the director, a prisoner shall be awarded worktime
 4 credit reductions from his or her term of confinement of six
 5 months. A lesser amount of credit based on this ratio shall be
 6 awarded for any lesser period of continuous performance. Less
 7 than maximum credit may be awarded pursuant to regulations
 8 adopted by the director for prisoners not assigned to a full-time
 9 credit qualifying program. Every prisoner who refuses to accept
 10 a full-time credit qualifying assignment or who is denied the
 11 opportunity to earn worktime credits pursuant to subdivision (a)
 12 of Section 2932 shall be awarded no worktime credit reduction.
 13 Except as provided in subdivision (a) of Section 2932 and in
 14 Sections 2933.1, 2933.2, 2933.5, and 2933.6, every prisoner who
 15 is willing to participate in a full-time credit qualifying assignment
 16 but is either not assigned to a full-time assignment or assigned to
 17 a program for less than full time, shall receive the same credit
 18 awarded to prisoners performing in full-time credit qualifying
 19 assignments. Worktime credits shall accrue from the date of
 20 reception by the Department of Corrections. Under no
 21 circumstances shall any prisoner receive more than six months'
 22 credit reduction for any six-month period under this section.

23 (b) Worktime credit is a privilege, not a right. Worktime credit
 24 must be earned pursuant to subdivision (a) and may be forfeited
 25 pursuant to the provisions of Section 2932. The application of
 26 credit to reduce the sentence of a prisoner who committed a crime
 27 on or after January 1, 1997, is subject to the provisions of Section
 28 3067. Except as provided in subdivision (a) of Section 2932, every
 29 prisoner shall have a reasonable opportunity to participate in a
 30 full-time credit qualifying assignment in a manner consistent with
 31 institutional security and available resources.

32 (c) Under regulations adopted by the Department of
 33 Corrections, which shall require a period of not more than one year
 34 free of disciplinary infractions, worktime credit which has been
 35 previously forfeited may be restored by the director. The
 36 regulations shall provide for separate classifications of serious
 37 disciplinary infractions as they relate to restoration of credits, the
 38 time period required before forfeited credits or a portion thereof
 39 may be restored, and the percentage of forfeited credits that may
 40 be restored for these time periods. For credits forfeited for

1 commission of a felony specified in paragraph (1) of subdivision
2 (a) of Section 2932, the Department of Corrections may provide
3 that up to 180 days of lost credit shall not be restored and up to 90
4 days of credit shall not be restored for a forfeiture resulting from
5 conspiracy or attempts to commit one of those acts. No credits may
6 be restored if they were forfeited for a serious disciplinary
7 infraction in which the victim died or was permanently disabled.
8 Upon application of the prisoner and following completion of the
9 required time period free of disciplinary offenses, forfeited credits
10 eligible for restoration under the regulations for disciplinary
11 offenses other than serious disciplinary infractions punishable by
12 a credit loss of more than 90 days shall be restored unless, at a
13 hearing, it is found that the prisoner refused to accept or failed to
14 perform in a credit qualifying assignment, or extraordinary
15 circumstances are present that require that credits not be restored.
16 “Extraordinary circumstances” shall be defined in the regulations
17 adopted by the director. However, in any case in which worktime
18 credit was forfeited for a serious disciplinary infraction punishable
19 by a credit loss of more than 90 days, restoration of credit shall be
20 at the discretion of the director.

21 The prisoner may appeal the finding through the Department of
22 Corrections review procedure, which shall include a review by an
23 individual independent of the institution who has supervisory
24 authority over the institution.

25 (d) The provisions of subdivision (c) shall also apply in cases
26 of credit forfeited under Section 2931 for offenses and serious
27 disciplinary infractions occurring on or after January 1, 1983.

28 (e) The amendments to this section made at the 2003–04 First
29 Extraordinary Session may not be applied retroactively, but shall
30 be applied only to time served under the jurisdiction of the
31 Department of Corrections on and after the effective date of the
32 amendments.

33 ~~SEC. 2.—Section 3001.5 is added to the Penal Code, to read:~~

34 ~~3001.5.—(a) Notwithstanding Section 3001 or any other~~
35 ~~provision of law, commencing April 1, 2003, every parolee who~~
36 ~~has been on parole continuously for one year since release from~~
37 ~~confinement shall be discharged from parole, except as provided~~
38 ~~in subdivision (b).~~

39 ~~(b) This section shall not apply to any of the following persons:~~

1 ~~(1) Persons who are on parole from a commitment for one or~~
2 ~~more offenses defined in subdivision (c) of Section 667.5 as~~
3 ~~violent felonies or defined in subdivision (c) of Section 1192.7 as~~
4 ~~serious felonies in this state.~~

5 ~~(2) Persons who have one or more prior convictions for any~~
6 ~~offense described in paragraph (1).~~

7 ~~(3) Persons with one or more prior convictions in another~~
8 ~~jurisdiction for any felony offense that includes all of the elements~~
9 ~~of any offense described in paragraph (1).~~

10 ~~(4) Persons who are required to register pursuant to Section~~
11 ~~290.~~

12 SEC. 3. ~~Section 3041 of the Penal Code is amended to read:~~

13 ~~3041. (a) In the case of any prisoner sentenced pursuant to~~
14 ~~any provision of law, other than Chapter 4.5 (commencing with~~
15 ~~Section 1170) of Title 7 of Part 2, the Board of Prison Terms shall~~
16 ~~meet with each inmate during the third year of incarceration for the~~
17 ~~purposes of reviewing the inmate's file, making~~
18 ~~recommendations, and documenting activities and conduct~~
19 ~~pertinent to granting or withholding post-conviction credit. One~~
20 ~~year prior to the inmate's minimum eligible parole release date a~~
21 ~~panel consisting of at least two commissioners of the Board of~~
22 ~~Prison Terms shall again meet with the inmate and shall normally~~
23 ~~set a parole release date as provided in Section 3041.5. The panel~~
24 ~~shall consist solely of commissioners or deputy commissioners~~
25 ~~from the Board of Prison Terms. The release date shall be set in a~~
26 ~~manner that will provide uniform terms for offenses of similar~~
27 ~~gravity and magnitude in respect to their threat to the public, and~~
28 ~~that will comply with the sentencing rules that the Judicial Council~~
29 ~~may issue and any sentencing information relevant to the setting~~
30 ~~of parole release dates. The board shall establish criteria for the~~
31 ~~setting of parole release dates and in doing so shall consider the~~
32 ~~number of victims of the crime for which the prisoner was~~
33 ~~sentenced and other factors in mitigation or aggravation of the~~
34 ~~crime. At least one commissioner of the panel shall have been~~
35 ~~present at the last preceding meeting, unless it is not feasible to do~~
36 ~~so or where the last preceding meeting was the initial meeting. Any~~
37 ~~person on the hearing panel may request review of any decision~~
38 ~~regarding parole to the full board for an en banc hearing. In case~~
39 ~~of a review, a majority vote of the full Board of Prison Terms in~~
40 ~~favor of parole is required to grant parole to any prisoner.~~

1 ~~(b) The panel or board shall set a release date unless it~~
2 ~~determines that the gravity of the current convicted offense or~~
3 ~~offenses, or the timing and gravity of current or past convicted~~
4 ~~offense or offenses, is such that consideration of the public safety~~
5 ~~requires a more lengthy period of incarceration for this individual,~~
6 ~~and that a parole date, therefore, cannot be fixed at this meeting.~~
7 ~~After the effective date of this subdivision, any decision of the~~
8 ~~parole panel finding an inmate suitable for parole shall become~~
9 ~~final within 120 days of the date of the hearing. During that period,~~
10 ~~the board may review the panel's decision. The panel's decision~~
11 ~~shall become final pursuant to this subdivision unless the board~~
12 ~~finds that the panel made an error of law, or that the panel's~~
13 ~~decision was based on an error of fact, or that new information~~
14 ~~should be presented to the board, any of which when corrected or~~
15 ~~considered by the board has a substantial likelihood of resulting in~~
16 ~~a substantially different decision upon a rehearing. In making this~~
17 ~~determination, the board shall consult with the commissioners~~
18 ~~who conducted the parole consideration hearing. No decision of~~
19 ~~the parole panel shall be disapproved and referred for rehearing~~
20 ~~except by a majority vote of the board following a public hearing.~~

21 ~~(c) For the purpose of reviewing the suitability for parole of~~
22 ~~those prisoners eligible for parole under prior law at a date earlier~~
23 ~~than that calculated under Section 1170.2, the board shall appoint~~
24 ~~panels of at least two persons to meet annually with each prisoner~~
25 ~~until the time the person is released pursuant to proceedings or~~
26 ~~reaches the expiration of his or her term as calculated under~~
27 ~~Section 1170.2.~~

28 ~~(d) Notwithstanding subdivision (a) and Section 5076.1, on an~~
29 ~~emergency basis, and only until December 31, 2003, life parole~~
30 ~~consideration hearings or life rescission hearings may be~~
31 ~~conducted by two-person panels consisting of at least one~~
32 ~~commissioner. In the event of a tie vote, the matter shall be referred~~
33 ~~to the full board for a decision. It is the intent of the Legislature in~~
34 ~~enacting this subdivision to allow the board to increase the number~~
35 ~~of hearings conducted each month to eliminate the backlog of~~
36 ~~inmates awaiting a parole consideration hearing. The board shall~~
37 ~~report monthly on the number of hearings conducted in the~~
38 ~~previous month, the number scheduled in the current and~~
39 ~~subsequent months, the backlog of cases awaiting a hearing, and~~
40 ~~progress toward eliminating the backlog. The report shall be made~~

public at a regularly scheduled meeting of the board and a written report shall be made available to the public and transmitted to the Legislature monthly.

~~(e) (1) Commencing April 1, 2003, every prisoner whose parole date has been set, and who has not suffered a current or prior conviction for a violent or serious felony, as described in Section 667.5 or 1192.7, respectively, or for any offense requiring registration pursuant to Section 290 or resulting in a term of life in prison, shall be released one month earlier than the previously set date for release to parole.~~

~~(2) Commencing April 1, 2003, every prisoner who has not had a parole release date set, and who has not suffered a current or prior conviction for a violent or serious felony, as described in Section 667.5 or 1192.7, respectively, or for any offense requiring registration pursuant to Section 290 or resulting in a term of life in prison, shall have a parole release date set one month earlier than would otherwise occur in the absence of this subdivision.~~

~~SEC. 4.~~

SEC. 2. Section 3057 of the Penal Code is amended to read:

3057. (a) Confinement pursuant to a revocation of parole in the absence of a new conviction and commitment to prison under other provisions of law, shall not exceed 12 months, except as provided in subdivision (c).

(b) Upon completion of confinement pursuant to parole revocation without a new commitment to prison, the inmate shall be released on parole for a period which shall not extend beyond that portion of the maximum statutory period of parole specified by Section 3000 that was unexpired at the time of each revocation.

(c) Notwithstanding the limitations in subdivision (a) and in Section 3060.5, upon confinement pursuant to a parole revocation, the parole authority may extend the confinement pursuant to parole revocation for a maximum of an additional 12 months for subsequent acts of misconduct committed by the parolee while confined pursuant to that parole revocation. Upon a finding of good cause to believe that a parolee has committed a subsequent act of misconduct and utilizing procedures governing parole revocation proceedings, the parole authority may extend the period of confinement pursuant to parole revocation as follows:

(1) not more than 180 days for an act punishable as a felony, whether or not prosecution is undertaken, (2) not more than 90

1 days for an act punishable as a misdemeanor, whether or not
2 prosecution is undertaken, and (3) not more than 30 days for an act
3 defined as a serious disciplinary offense pursuant to subdivision
4 (a) of Section 2932.

5 (d) (1) Except for parolees specified in paragraph (2), any
6 revocation period imposed under subdivision (a) may be reduced
7 in the same manner and to the same extent as a term of
8 imprisonment may be reduced by worktime credits under Section
9 2933. Worktime credit must be earned pursuant to Section 2933
10 and may be forfeited pursuant to the provisions of Section 2932.

11 Worktime credit forfeited shall not be restored.

12 (2) The following parolees shall not be eligible for credit under
13 this subdivision:

14 (A) Parolees who are sentenced under Section 1168 with a
15 maximum term of life imprisonment.

16 (B) Parolees who violated a condition of parole relating to
17 association with specified persons, entering prohibited areas,
18 attendance at parole outpatient clinics, or psychiatric attention.

19 (C) Parolees who were revoked for conduct described in, or
20 that could be prosecuted under any of the following sections,
21 whether or not prosecution is undertaken: Section 189, Section
22 191.5, subdivision (a) or paragraph (3) of subdivision (c) of
23 Section 192, Section 203, 207, 211, 215, 217.1, or 220,
24 subdivision (b) of Section 241, Section 244, paragraph (1) or (2)
25 of subdivision (a) of Section 245, paragraph (2) or (6) of
26 subdivision (a) of Section 261, paragraph (1) or (4) of subdivision
27 (a) of Section 262, Section 264.1, subdivision (c) or (d) of Section
28 286, Section 288, subdivision (c) or (d) of Section 288a,
29 subdivision (a) of Section 289, 347, or 404, subdivision (a) of
30 Section 451, Section 12020, 12021, 12022, 12022.5, 12022.53,
31 12022.7, 12022.8, 12025, or 12560, or Section 664 for any attempt
32 to engage in conduct described in or that could be prosecuted under
33 any of the above-mentioned sections.

34 (D) Parolees who were revoked for any reason if they had been
35 granted parole after conviction of any of the offenses specified in
36 subparagraph (C).

37 (E) Parolees who the parole authority finds at a revocation
38 hearing to be unsuitable for reduction of the period of confinement

- 1 because of the circumstances and gravity of the parole violation,
- 2 or because of prior criminal history.

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